07/011,885

**UNITED STATES DEPARTMENT OF COMMERCE**
**Patent and Trademark Office**

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| 07/011,885 | 02/06/87 | OISHI | S |

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| EXAMINER | |
|---|---|
| HARRIS, C | |
| **ART UNIT** | **PAPER NUMBER** |
| 331 | 3 |

**DATE MAILED:** 08/20/87

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

1. ☒ Notice of References Cited by Examiner, PTO-892.
2. ☐ Notice re Patent Drawing, PTO-948.
3. ☐ Notice of Art Cited by Applicant, PTO-1449
4. ☐ Notice of informal Patent Application, Form PTO-152
5. ☐ Information on How to Effect Drawing Changes, PTO-1474
6. ☐ _____

**Part II SUMMARY OF ACTION**

1. ☒ Claims 1-4 are pending in the application.

   Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☒ Claims 1-4 are rejected.

5. ☐ Claims _____ are objected to.

6. ☐ Claims _____ are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.

8. ☐ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. These drawings are ☐ acceptable; ☐ not acceptable (see explanation).

10. ☐ The ☐ proposed drawing correction and/or the ☐ proposed additional or substitute sheet(s) of drawings, filed on _____. has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed _____, has been ☐ approved. ☐ disapproved (see explanation). However, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections MUST be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.

12. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

Applicant is reminded of the proper content of an Abstract of the Disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains.

If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure.

If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement.

In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof.

If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following: (1) if a machine or apparatus, its organization and operation; (2) if an article, its method of making; (3) if a chemical compound, its identity and use; (4) if a mixture, its ingredients; (5) if a process, the steps. Extensive mechanical and design details of apparatus should not be given.

The Abstract of the Disclosure is objected to because the claimed feature, a third crankshaft, which permits walking is not mentioned. Correction is required. See MPEP 608.01(b).

The drawings are objected to because Fig. 3 is a partially cut-away view yet no section lines or crosshatching are shown. Correction is required.

Applicant is required to submit a proposed drawing correction in response to this Office action. However, correction of the noted defect can be deferred until the application is allowed by the examiner.

The applicant is requested to submit a copy of Japanese Patent Laid-Open No. 103 689/1984 to ensure proper examination of the Applicant's invention.

The specification is replete with grammatical and idiomatic errors too numerous to mention specifically. The specification should be revised carefully. Examples of such errors are: On page 11 in lines 13-14 "transversly elongaged" should read "transversely elongated". On page 8 in lines 9 and 14 "elongaged" should read "elongated".

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. 112, first paragraph, as failing to provide an adequate written description of the invention and failing to adequately teach how to make the invention.

No cable or other means to disengage the clutch in Figs. 5 and 6 is provided. It is unknown from the disclosure and drawings how gears 39 and 40 would ever be urged against the coiled springs 43 and 44. On page

19 lines 1-4 and on page 25 lines 15-26 the disclosure is defective. These passages support the contention that the motor will activate different crankshafts when run in reverse as opposed to forward. Since both gears 46 and 47 are connected to crankshaft 45 and gears 51 and 52 are connected to crankshaft 50, it does not matter which gear the clutch somehow disengages, all three crankshafts will operate when the motor is run in forward and reverse.

Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 in lines 9 and 10 "siad" should read "said". In claim 4 in line 19 "second" should read "sound".

The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
>
> Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1 and 3 as understood are rejected under 35 U.S.C. 103 as being unpatentable over Iwaya in view of Tomaro.

Iwaya in Figs. 1 and 3 discloses a toy body in the form of a dog with movable leg frames moved by a first crankshaft between elements 43 and 51. A second crankshaft 27 opens the mouth 34 and powers the sounding member 30 and 31. Tomaro in Fig. 4 teaches the use of a control unit 20, microphone 21, sound-producing bellows 25 and an operating piece 29 which actuates the bellows. It would have been obvious at the time the invention was made to add the sound-actuated apparatus and bellows as taught by Tomaro to the toy of Iwaya as a choice of design to produce an intermittent motion toy which amuses the user.

Claim 2 as understood is rejected under 35 U.S.C. 103 as being unpatentable over Iwaya in view of Tomaro as applied to claim 1 above, and further in view of Saigo et al.

Saigo et al in Fig. 3 teaches the use of a head member 16, which is made of synthetic resin, partially covering the arm frame 17, which contains a bendable core member of wire. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to substitute arm frames comprising a bendable core material surrounded by synthetic resin as taught by Saigo et al for the material of Iwaya as modified as a choice of design.

Claim 4 as understood is rejected under 35 U.S.C. 103 as being unpatentable over Iwaya in view of Tomaro and Colwell.

As previously mentioned Iwaya in Figs. 2 and 3 discloses a toy body in the form of a dog with movable leg frames moved by a first crankshaft between elements 43 and 51. A second crankshaft 27 opens the mouth 34 and powers the sounding member 30 and 31. Tomaro in Fig. 4 teaches the use of a control unit 20, microphone 21, sound-producing bellows 25 and an operating piece 29 which actuates the bellows. Colwell in Fig. 5 teaches the use of two crankshafts 20 and 20' to power the four appendages of the horse. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to substitute a third crankshaft as taught by Colwell for the connecting rods 54 of Iwaya as a choice of design. It would have been further obvious to add the sound-actuated apparatus as taught by Tomaro to the toy of Iwaya as modified to produce an intermittent motion toy which amuses the user.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles H. Harris whose telephone number is (703) 557-2739.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 557-3125.

C. Harris:rk
7/31/76

ROBERT A. HAFER
S.P.E.
ART UNIT 331